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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,622	02/25/2002	Donald J. Hejna JR.	timeconverge-con	6281
27087 7590 05/01/2008 MICHAEL B. EINSCHLAG, ESQ. 25680 FERNHILL DRIVE LOS ALTOS HILLS, CA 94024				
EXAMINER				
NEWLIN, TIMOTHY R				
ART UNIT		PAPER NUMBER		
2623				
MAIL DATE		DELIVERY MODE		
05/01/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/082,622

**Applicant(s)**

HEJNA, DONALD J.

**Examiner**

Timothy R. Newlin

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2623

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-14 is/are allowed.
- 6) ☒ Claim(s) 7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 2/19/2008 have been fully considered but they are not persuasive.

Although Kochanski focuses on synchronizing different viewers who request an on-demand (unscheduled) program at different times, its teachings are readily applied in a situation where a scheduled program runs past its allotted time. Take the example wherein viewer 1 (see Kochanski Fig. 3) is watching a sitcom, and viewer 2 is watching a presidential speech. Both users want to watch the same on-demand movie, following the conclusion of their respective programs. Although both programs are scheduled to end at the same time, only the sitcom concludes as scheduled, while the presidential speech overruns its time slot. Since viewer 1 is ready at the end of the sitcom, they begin watching the on-demand movie at that time. On the other hand, viewer 2 finishes watching the presidential speech until its (late) conclusion, then requests the movie. At that time, the system transmits a time-scale modified version of the movie to user B, for a period of time sufficient to "catch-up" with the real-time broadcast being viewed by user A.

The operation described by Kochanski is not patentably distinguished from that claimed by applicant. The only difference is the reason for the initial discrepancy in start times. In Kochanski, the reason is that viewers request a program at different times, and in applicant's scenario it is because a preceding program has overrun for one of the

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viewers. The concept of broadcasting a time-modified version is to some users in order to catch them up is common to both inventions.

In view of the amendment, claims 7 and 8 is rejected under §103 over Kochanski alone, as explained below.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kochanski, US 5,512,934.

3. Regarding claim 7, Kochanski teaches a method for broadcasting information which comprises:

broadcasting the time-scale modified version of at least a portion of a second work for a predetermined period of time [Fig. 3, col. 3, 18-52; col. 4, 25-34]; and

thereafter, broadcasting the remainder of the second work [the remainder of a program is broadcast using a normal rate feed; Figs. 2, 3, and col. 2, 39-49 col. 4, 31-37].

Kochanski does not disclose broadcasting a first work. However, Kochanski does teach the concept of broadcasting a time-scale modified version of a work in order to synchronize different streams, one of which began at a later time than the other. Kochanski mentions that it is common for more than three viewers to utilize a broadcast system simultaneously [col. 4, 39-41]. Likewise, a scenario in which two viewers are watching different programs and one of the programs overruns its scheduled time slot is commonplace in cable broadcasting systems. It is well-known in the art of video broadcasting that certain live programs may extend past their scheduled ending time, and it would have been obvious to one skilled in the art of video broadcasting to utilize the multiple time-scale feeds taught by Kochanski in order to present programs in their allotted time and start subsequent programs according to a predetermined schedule.

Given the teaching of Kochanski, it would be obvious to one of ordinary skill that the method of Kochanski could be applied, without changing its underlying functionality, to re-synchronize a user with a predetermined schedule if a first work overruns its time slot. The only difference is that the ending time of a previous program—rather than differing viewer request times—causes the initial discrepancy. The reason for the initial scheduling discrepancy does not patentably distinguish the claim over Kochanski.

4. Regarding claim 8, Kochanski teaches a method wherein the predetermined period of time is substantially equal to a time interval for the time-scale modified version to synchronize with the second work being broadcast had the second work been broadcast at a predetermined start time. [Fig. 3; col. 2, 39-49; col. 4, 15-35].

***Allowable Subject Matter***

5. Claims 9-14 are allowed, because the prior art does not disclose all the specific elements recited in claim 9. In particular, elements involving the "leader duration determiner", "leader streamer", "leader re-broadcast interval" and "leader multicaster" are not anticipated in the prior art taken with all the other limitations. While the overall system has analogous prior art, including Kochanski and Zetts as cited above, the details of the method render claim 9 allowable. Claims 10-14 are allowed because they depend from claim 9.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Newlin whose telephone number is (571) 270-3015. The examiner can normally be reached on M-F, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art  
Unit 2623

TRN

